

1                                    AMENDMENT TO HOUSE BILL 1553

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1553 by replacing  
3 everything after the enacting clause with the following:

4            "Section 5. The Drycleaner Environmental Response Trust  
5 Fund Act is amended by changing Sections 5, 15, 25, 40, 45,  
6 60, 65, and 85 as follows:

7            (415 ILCS 135/5)

8            Sec. 5. Definitions. As used in this Act:

9            (a) "Active drycleaning facility" means a drycleaning  
10 facility actively engaged in drycleaning operations and  
11 licensed under Section 60 of this Act.

12            (b) "Agency" means the Illinois Environmental Protection  
13 Agency.

14            (c) "Claimant" means an owner or operator of a  
15 drycleaning facility who has applied for reimbursement from  
16 the remedial account or who has submitted a claim under the  
17 insurance account with respect to a release.

18            (d) "Council" means the Drycleaner Environmental  
19 Response Trust Fund Council.

20            (e) "Drycleaner Environmental Response Trust Fund" or  
21 "Fund" means the fund created under Section 10 of this Act.

22            (f) "Drycleaning facility" means a facility located in

1 this State that is or has been engaged in drycleaning  
2 operations for the general public, other than a:

3 (1) facility located on a United States military  
4 base;

5 (2) industrial laundry, commercial laundry, or  
6 linen supply facility;

7 (3) prison or other penal institution that engages  
8 in drycleaning only as part of a Correctional Industries  
9 program to provide drycleaning to persons who are  
10 incarcerated in a prison or penal institution or to  
11 resident patients of a State-operated mental health  
12 facility;

13 (4) not-for-profit hospital or other health care  
14 facility; or a

15 (5) facility located or formerly located on federal  
16 or State property.

17 (g) "Drycleaning operations" means drycleaning of  
18 apparel and household fabrics for the general public, as  
19 described in Standard Industrial Classification Industry No.  
20 7215 and No. 7216 in the Standard Industrial Classification  
21 Manual (SIC) by the Technical Committee on Industrial  
22 Classification.

23 (h) "Drycleaning solvent" means any and all nonaqueous  
24 solvents, including but not limited to a chlorine-based or  
25 petroleum-based hydrocarbon-based formulation or product,  
26 including green solvents, that are ~~is~~ used as a primary  
27 cleaning agent in drycleaning operations.

28 (i) "Emergency" or "emergency action" means a situation  
29 or an immediate response to a situation to protect public  
30 health or safety. "Emergency" or "emergency action" does not  
31 mean removal of contaminated soils, recovery of free  
32 product, or financial hardship. An "emergency" or "emergency  
33 action" would normally be expected to be directly related to  
34 a sudden event or discovery and would last until the threat

1 to public health is mitigated.

2 (j) "Groundwater" means underground water that occurs  
3 within the saturated zone and geologic materials where the  
4 fluid pressure in the pore space is equal to or greater than  
5 the atmospheric pressure.

6 (k) "Inactive drycleaning facility" means a drycleaning  
7 facility that is not being used for drycleaning operations  
8 and is not registered under this Act.

9 (l) "Maintaining a place of business in this State" or  
10 any like term means (1) having or maintaining within this  
11 State, directly or through a subsidiary, an office,  
12 distribution facility, distribution house, sales house,  
13 warehouse, or other place of business or (2) operating within  
14 this State as an agent or representative for a person or a  
15 person's subsidiary engaged in the business of selling to  
16 persons within this State, irrespective of whether the place  
17 of business or agent or other representative is located in  
18 this State permanently or temporary, or whether the person or  
19 the person's subsidiary engages in the business of selling in  
20 this State.

21 (m) "No Further Remediation Letter" means a letter  
22 provided by the Agency pursuant to Section 58.10 of Title  
23 XVII of the Environmental Protection Act.

24 (n) "Operator" means a person or entity holding a  
25 business license to operate a licensed drycleaning facility  
26 or the business operation of which the drycleaning facility  
27 is a part.

28 (o) "Owner" means (1) a person who owns or has  
29 possession or control of a drycleaning facility at the time a  
30 release is discovered, regardless of whether the facility  
31 remains in operation or (2) a parent corporation of the  
32 person under item (1) of this subdivision.

33 (p) "Parent corporation" means a business entity or  
34 other business arrangement that has elements of common

1 ownership or control or that uses a long-term contractual  
2 arrangement with a person to avoid direct responsibility for  
3 conditions at a drycleaning facility.

4 (q) "Person" means an individual, trust, firm, joint  
5 stock company, corporation, consortium, joint venture, or  
6 other commercial entity.

7 (r) "Program year" means the period beginning on July 1  
8 and ending on the following June 30.

9 (s) "Release" means any spilling, leaking, emitting,  
10 discharging, escaping, leaching, or dispersing of drycleaning  
11 solvents from a drycleaning facility to groundwater, surface  
12 water, or subsurface soils.

13 (t) "Remedial action" means activities taken to comply  
14 with Sections 58.6 and 58.7 of the Environmental Protection  
15 Act and rules adopted by the Pollution Control Board under  
16 those Sections.

17 (u) "Responsible party" means an owner, operator, or  
18 other person financially responsible for costs of remediation  
19 of a release of drycleaning solvents from a drycleaning  
20 facility.

21 (v) "Service provider" means a consultant, testing  
22 laboratory, monitoring well installer, soil boring  
23 contractor, other contractor, lender, or any other person who  
24 provides a product or service for which a claim for  
25 reimbursement has been or will be filed against the remedial  
26 account or insurance account, or a subcontractor of such a  
27 person.

28 (w) "Virgin facility" means a drycleaning facility that  
29 has never had chlorine-based or petroleum-based drycleaning  
30 solvents or other hazardous chemicals or materials stored or  
31 used at the property prior to it becoming a green solvent  
32 drycleaning facility.

33 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

1 (415 ILCS 135/15)

2 Sec. 15. Creation of Council.

3 (a) The Drycleaner Environmental Response Trust Fund  
4 Council is established and shall consist of the following  
5 voting members to be appointed by the Governor:

6 (1) Four ~~Three~~ members who own or operate a  
7 drycleaning facility. ~~Two--of--these--members--must--be~~  
8 ~~members--of--the--Illinois--State--Fabricare--Association.~~  
9 These members shall serve 3 year terms, except that of  
10 the initial members appointed, one shall be appointed for  
11 a term of one year, one for a term of 2 years, and one  
12 for a term of 3 years.

13 (2) One member who represents wholesale  
14 distributors of drycleaning solvents. This member shall  
15 serve for a term of 3 years.

16 (3) One member who represents the drycleaning  
17 equipment manufacturers and vendor community. This  
18 member shall serve for a term of 3 years.

19 (4) One member ~~Two--members~~ with experience in  
20 financial markets or the insurance industry. This member  
21 ~~These--members~~ shall serve 3-year-terms, ~~--except--that--of~~  
22 ~~the--initial--appointments,~~ ~~--one--shall--be--appointed--for--a~~  
23 ~~term--of--2--years,~~ ~~--and--one~~ for a term of 3 years.

24 Each member shall have experience, knowledge, and  
25 expertise relating to the subject matter of this Act.

26 (b) The Governor may remove any member of the Council  
27 for incompetency, neglect of duty, or malfeasance in office  
28 after service on him or her of a copy of the written charges  
29 against him or her and after an opportunity to be publicly  
30 heard in person or by counsel in his or her own defense no  
31 earlier than 10 days after the Governor has provided notice  
32 of the opportunity to the Council member. Evidence of  
33 incompetency, neglect of duty, or malfeasance in office may  
34 be provided to the Governor by the Agency or the Auditor

1 General following the annual audit described in Section 80.

2 (c) Members of the Council are entitled to receive  
3 reimbursement of actual expenses incurred in the discharge of  
4 their duties within the limit of funds appropriated to the  
5 Council or made available to the Fund. The Governor shall  
6 appoint a chairperson of the Council from among the members  
7 of the Council.

8 (d) The Attorney General's office or its designee shall  
9 provide legal counsel to the Council.

10 (Source: P.A. 90-502, eff. 8-19-97.)

11 (415 ILCS 135/25)

12 Sec. 25. Powers and duties of the Council.

13 (a) The Council shall have all of the general powers  
14 reasonably necessary and convenient to carry out its purposes  
15 and may perform the following functions, subject to any  
16 express limitations contained in this Act:

17 (1) Take actions and enter into agreements  
18 necessary to reimburse claimants for eligible remedial  
19 action expenses, assist the Agency to protect the  
20 environment from releases, reduce costs associated with  
21 remedial actions, and establish and implement an  
22 insurance program.

23 (2) Acquire and hold personal property to be used  
24 for the purpose of remedial action.

25 (3) Purchase, construct, improve, furnish, equip,  
26 lease, option, sell, exchange, or otherwise dispose of  
27 one or more improvements under the terms it determines.  
28 The Council may define "improvements" by rule for  
29 purposes of this Act.

30 (4) Grant a lien, pledge, assignment, or other  
31 encumbrance on one or more revenues, assets of right,  
32 accounts, or funds established or received in connection  
33 with the Fund, including revenues derived from fees or

1 taxes collected under this Act.

2 (5) Contract for the acquisition or construction of  
3 one or more improvements or parts of one or more  
4 improvements or for the leasing, subleasing, sale, or  
5 other disposition of one or more improvements in a manner  
6 the Council determines.

7 (6) Cooperate with the Agency in the implementation  
8 and administration of this Act to minimize unnecessary  
9 duplication of effort, reporting, or paperwork and to  
10 maximize environmental protection within the funding  
11 limits of this Act.

12 (7) Except as otherwise provided by law, inspect  
13 any document in the possession of an owner, operator,  
14 service provider, or any other person if the document is  
15 relevant to a claim for reimbursement under this Section  
16 or may inspect a drycleaning facility for which a claim  
17 for benefits under this Act has been submitted.

18 (b) The Council shall pre-approve, and the contracting  
19 parties shall seek pre-approval for, a contract entered into  
20 under this Act if the cost of the contract exceeds \$75,000.  
21 The Council or its designee shall review and approve or  
22 disapprove all contracts entered into under this Act.  
23 However, review by the Council or its designee shall not be  
24 required when an emergency situation exists. All contracts  
25 entered into by the Council shall be awarded on a  
26 competitive basis to the maximum extent practical. In those  
27 situations where it is determined that bidding is not  
28 practical, the basis for the determination of  
29 impracticability shall be documented by the Council or its  
30 designee.

31 (c) The Council may prioritize the expenditure of funds  
32 from the remedial action account whenever it determines that  
33 there are not sufficient funds to settle all current claims.  
34 In prioritizing, the Council may consider the following:

1 (1) the degree to which human health is affected by  
2 the exposure posed by the release;

3 (2) the reduction of risk to human health derived  
4 from remedial action compared to the cost of the  
5 remedial action;

6 (3) the present and planned uses of the impacted  
7 property; and

8 (4) other factors as determined by the Council.

9 (d) The Council shall adopt rules allowing the direct  
10 payment from the Fund to a contractor who performs  
11 remediation. The rules concerning the direct payment shall  
12 include a provision that any applicable deductible must be  
13 paid by the drycleaning facility prior to any direct payment  
14 from the Fund.

15 (e) The Council may purchase reinsurance coverage to  
16 reduce the Fund's potential liability for reimbursement of  
17 remedial action costs.

18 (Source: P.A. 90-502, eff. 8-19-97.)

19 (415 ILCS 135/40)

20 Sec. 40. Remedial action account.

21 (a) The remedial action account is established to  
22 provide reimbursement to eligible claimants for drycleaning  
23 solvent investigation, remedial action planning, and remedial  
24 action activities for existing drycleaning solvent  
25 contamination discovered at their drycleaning facilities.

26 (b) The following persons are eligible for reimbursement  
27 from the remedial action account:

28 (1) In the case of claimant who is the owner or  
29 operator of an active drycleaning facility licensed by  
30 the Council under this Act at the time of application for  
31 remedial action benefits afforded under the Fund, the  
32 claimant is only eligible for reimbursement of remedial  
33 action costs incurred in connection with a release from

1 that drycleaning facility, subject to any other  
2 limitations under this Act.

3 (2) In the case of a claimant who is the owner of  
4 an inactive drycleaning facility and was the owner or  
5 operator of the drycleaning facility when it was an  
6 active drycleaning facility, the claimant is only  
7 eligible for reimbursement of remedial action costs  
8 incurred in connection with a release from the  
9 drycleaning facility, subject to any other limitations  
10 under this Act.

11 (c) An eligible claimant requesting reimbursement from  
12 the remedial action account shall meet all of the following:

13 (1) The claimant demonstrates that the source of  
14 the release is from the claimant's drycleaning facility.

15 (2) At the time the release was discovered by the  
16 claimant, the claimant and the drycleaning facility were  
17 in compliance with the Agency reporting and technical  
18 operating requirements.

19 (3) The claimant reported the release in a timely  
20 manner to the Agency in accordance with State law.

21 (4) The claimant applying for reimbursement has not  
22 filed for bankruptcy on or after the date of his or her  
23 discovery of the release.

24 (5) If the claimant is the owner or operator of an  
25 active drycleaning facility, the claimant has provided to  
26 the Council proof of implementation and maintenance of  
27 the following pollution prevention measures:

28 (A) That all drycleaning solvent wastes  
29 generated at a drycleaning facility be managed in  
30 accordance with applicable State waste management  
31 laws and rules.

32 (B) A prohibition on the discharge of  
33 wastewater from drycleaning machines or of  
34 drycleaning solvent from drycleaning operations to a

1 sanitary sewer or septic tank or to the surface or  
2 in groundwater.

3 (C) That every drycleaning facility:

4 (I) install a containment dike or other  
5 containment structure around each machine, or  
6 item of equipment, ~~or the entire~~ drycleaning  
7 area, and portable waste container in which any  
8 drycleaning solvent is utilized, which shall be  
9 capable of containing leaks, spills, or  
10 releases any ~~leak, spill, or~~ release of  
11 drycleaning solvent from that machine, item, or  
12 area, or container. The containment dike or  
13 other containment structure shall be capable of  
14 at least the following: (i) containing a  
15 capacity of 110% of the drycleaning solvent in  
16 the largest tank or vessel within the machine;  
17 (ii) containing 100% of the drycleaning solvent  
18 of each item of equipment or drycleaning area;  
19 and (iii) containing 100% of the drycleaning  
20 solvent of the largest portable waste container  
21 or at least 10% of the total volume of the  
22 portable waste containers stored within the  
23 containment dike or structure, whichever is  
24 greater.

25 Petroleum underground storage tank systems  
26 that are upgraded in accordance with USEPA  
27 upgrade standards pursuant to 40 CFR Part 280  
28 for the tanks and related piping systems and  
29 use a leak detection system approved by the  
30 USEPA or IEPA are exempt from this secondary  
31 containment requirement; and

32 (II) seal or otherwise render impervious  
33 those portions of diked floor surfaces on which  
34 a drycleaning solvent may leak, spill, or

1 otherwise be released.

2 (D) A requirement that all drycleaning solvent  
3 shall be delivered to drycleaning facilities by  
4 means of closed, direct-coupled delivery systems.

5 (6) An active drycleaning facility has maintained  
6 continuous financial assurance for environmental  
7 liability coverage in the amount of at least \$500,000 at  
8 least since the date of award of benefits under this  
9 Section or July 1, 2000, whichever is earlier. An  
10 uninsured drycleaning facility that has filed an  
11 application for insurance with the Fund by January 1,  
12 2004, obtained insurance through that application, and  
13 maintained that insurance coverage continuously shall be  
14 considered to have conformed with the requirements of  
15 this subdivision (6). To conform with this requirement  
16 the applicant must pay the equivalent of the total  
17 premiums due for the period beginning June 30, 2000  
18 through the date of application plus a 20% penalty of the  
19 total premiums due for that period.

20 (7) The release was discovered on or after July 1,  
21 1997 and before July 1, 2006 2004.

22 (d) A claimant shall submit a completed application form  
23 provided by the Council. The application shall contain  
24 documentation of activities, plans, and expenditures  
25 associated with the eligible costs incurred in response to a  
26 release of drycleaning solvent from a drycleaning facility.  
27 Application for remedial action account benefits must be  
28 submitted to the Council on or before June 30, 2005 2004.

29 (e) Claimants shall be subject to the following  
30 deductible requirements, unless modified pursuant to the  
31 Council's authority under Section 75:

32 (1) An eligible claimant submitting a claim for an  
33 active drycleaning facility is responsible for the first  
34 \$5,000 of eligible investigation costs and for the first

1 \$10,000 of eligible remedial action costs incurred in  
2 connection with the release from the drycleaning facility  
3 and is only eligible for reimbursement for costs that  
4 exceed those amounts, subject to any other limitations of  
5 this Act.

6 (2) An eligible claimant submitting a claim for an  
7 inactive drycleaning facility is responsible for the  
8 first \$10,000 of eligible investigation costs and for the  
9 first \$10,000 of eligible remedial action costs incurred  
10 in connection with the release from that drycleaning  
11 facility, and is only eligible for reimbursement for  
12 costs that exceed those amounts, subject to any other  
13 limitations of this Act.

14 (f) Claimants are subject to the following limitations  
15 on reimbursement:

16 (1) Subsequent to meeting the deductible  
17 requirements of subsection (e), and pursuant to the  
18 requirements of Section 75, reimbursement shall not  
19 exceed \$300,000 per active drycleaning facility and  
20 \$50,000 per inactive drycleaning facility.‡

21 (A) --\$160,000--per--active--drycleaning--facility  
22 for--which--an--eligible--claim--is--submitted--during--the  
23 program--year--beginning--July--17--1999;

24 (B) --\$150,000--per--active--drycleaning--facility  
25 for--which--an--eligible--claim--is--submitted--during--the  
26 program--year--beginning--July--17--2000;

27 (C) --\$140,000--per--active--drycleaning--facility  
28 for--which--an--eligible--claim--is--submitted--during--the  
29 program--year--beginning--July--17--2001;

30 (D) --\$130,000--per--active--drycleaning--facility  
31 for--which--an--eligible--claim--is--submitted--during--the  
32 program--year--beginning--July--17--2002;

33 (E) --\$120,000--per--active--drycleaning--facility  
34 for--which--an--eligible--claim--is--submitted--during--the

1 ~~program-year-beginning-July-1,-2003;-or~~

2 ~~(F)--\$50,000-per-inactive-drycleaning-facility.~~

3 (2) A contract in which one of the parties to the  
4 contract is a claimant, for goods or services that may be  
5 payable or reimbursable from the Council, is void and  
6 unenforceable unless and until the Council has found that  
7 the contract terms are within the range of usual and  
8 customary rates for similar or equivalent goods or  
9 services within this State and has found that the goods  
10 or services are necessary for the claimant to comply with  
11 Council standards or other applicable regulatory  
12 standards.

13 (3) A claimant may appoint the Council as an agent  
14 for the purposes of negotiating contracts with suppliers  
15 of goods or services reimbursable by the Fund. The  
16 Council may select another contractor for goods or  
17 services other than the one offered by the claimant if  
18 the scope of the proposed work or actual work of the  
19 claimant's offered contractor does not reflect the  
20 quality of workmanship required or if the costs are  
21 determined to be excessive, as determined by the Council.

22 (4) The Council may require a claimant to obtain  
23 and submit 3 bids and may require specific terms and  
24 conditions in a contract subject to approval.

25 (5) The Council may enter into a contract or an  
26 exclusive contract with the supplier of goods or services  
27 required by a claimant or class of claimants, in  
28 connection with an expense reimbursable from the Fund,  
29 for a specified good or service at a gross maximum price  
30 or fixed rate, and may limit reimbursement accordingly.

31 (6) Unless emergency conditions exist, a service  
32 provider shall obtain the Council's approval of the  
33 budget for the remediation work before commencing the  
34 work. No expense incurred that is above the budgeted

1 amount shall be paid unless the Council approves the  
2 expense prior to its being incurred. All invoices and  
3 bills relating to the remediation work shall be submitted  
4 with appropriate documentation, as deemed necessary by  
5 the Council, not later than 30 days after the work has  
6 been performed.

7 (7) Neither the Council nor an eligible claimant is  
8 responsible for payment for costs incurred that have not  
9 been previously approved by the Council, unless an  
10 emergency exists.

11 (8) The Council may determine the usual and  
12 customary costs of each item for which reimbursement may  
13 be awarded under this Section. The Council may revise the  
14 usual and customary costs from time to time as necessary,  
15 but costs submitted for reimbursement shall be subject to  
16 the rates in effect at the time the costs were incurred.

17 (9) If a claimant has pollution liability insurance  
18 coverage other than coverage provided by the insurance  
19 account under this Act, that coverage shall be primary.  
20 Reimbursement from the remedial account shall be limited  
21 to the deductible amounts under the primary coverage and  
22 the amount that exceeds the policy limits of the primary  
23 coverage, subject to the deductible amounts of this Act.  
24 If there is a dispute between the claimant and the  
25 primary insurance provider, reimbursement from the  
26 remedial action account may be made to the claimant after  
27 the claimant assigns all of his or her interests in the  
28 insurance coverage to the Council.

29 (g) The source of funds for the remedial action account  
30 shall be moneys allocated to the account by the Council  
31 according to the Fund budget approved by the Council.

32 (h) A drycleaning facility will be classified as active  
33 or inactive for purposes of determining benefits under this  
34 Section based on the status of the facility on the date a

1 claim is filed.

2 (i) Eligible claimants shall conduct remedial action in  
3 accordance with the Site Remediation Program under the  
4 Environmental Protection Act and Part 740 of Title 35 of the  
5 Illinois Administrative Code and the Tiered Approach to  
6 Cleanup Objectives under Part 742 of Title 35 of the Illinois  
7 Administrative Code.

8 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

9 (415 ILCS 135/45)

10 Sec. 45. Insurance account.

11 (a) The insurance account shall offer financial  
12 assurance for a qualified owner or operator of a drycleaning  
13 facility under the terms and conditions provided for under  
14 this Section. Coverage may be provided to either the owner or  
15 the operator of a drycleaning facility. The Council is not  
16 required to resolve whether the owner or operator, or both,  
17 are responsible for a release under the terms of an agreement  
18 between the owner and operator.

19 (b) The source of funds for the insurance account shall  
20 be as follows:

21 (1) Moneys appropriated to the Council or moneys  
22 allocated to the insurance account by the Council  
23 according to the Fund budget approved by the Council.

24 (2) Moneys collected as an insurance premium,  
25 including service fees, if any.

26 (3) Investment income attributed to the insurance  
27 account by the Council.

28 (c) An owner or operator may purchase coverage of up to  
29 \$500,000 per drycleaning facility subject to the terms and  
30 conditions under this Section and those adopted by the  
31 Council. Coverage shall be limited to remedial action costs  
32 associated with soil and groundwater contamination resulting  
33 from a release of drycleaning solvent at an insured

1 drycleaning facility, including third-party liability for  
2 soil and groundwater contamination. Coverage is not provided  
3 for a release that occurred before the date of coverage.

4 (d) An owner or operator, subject to underwriting  
5 requirements and terms and conditions deemed necessary and  
6 convenient by the Council, may purchase insurance coverage  
7 from the insurance account provided that the drycleaning  
8 facility to be insured meets the following conditions:

9 (1) a site investigation designed to identify soil  
10 and groundwater contamination resulting from the release  
11 of a drycleaning solvent has been completed. The Council  
12 shall determine if the site investigation is adequate.  
13 This investigation must be completed by June 30, 2006  
14 2004. For drycleaning facilities that apply for  
15 insurance coverage ~~become~~--active after June 30, 2006  
16 2004, the site investigation must be completed prior to  
17 issuance of insurance coverage; and

18 (2) the drycleaning facility is participating in  
19 and meets all requirements of a drycleaning compliance  
20 program approved by the Council.

21 (e) The annual premium for insurance coverage shall be:

22 (1) For the year July 1, 1999 through June 30,  
23 2000, \$250 per drycleaning facility.

24 (2) For the year July 1, 2000 through June 30,  
25 2001, \$375 per drycleaning facility.

26 (3) For the year July 1, 2001 through June 30,  
27 2002, \$500 per drycleaning facility.

28 (4) For the year July 1, 2002 through June 30,  
29 2003, \$625 per drycleaning facility.

30 (5) For subsequent years, an owner or operator  
31 applying for coverage shall pay an annual  
32 actuarially-sound insurance premium for coverage by the  
33 insurance account. The Council may approve Fund coverage  
34 through the payment of a premium established on an

1       actuarially-sound basis, taking into consideration the  
2       risk to the insurance account presented by the insured.  
3       Risk factor adjustments utilized to determine  
4       actuarially-sound insurance premiums should reflect the  
5       range of risk presented by the variety of drycleaning  
6       systems, monitoring systems, drycleaning volume, risk  
7       management practices, and other factors as determined by  
8       the Council. As used in this item, "actuarially sound" is  
9       not limited to Fund premium revenue equaling or exceeding  
10      Fund expenditures for the general drycleaning facility  
11      population. Actuarially-determined premiums shall be  
12      published at least 180 days prior to the premiums  
13      becoming effective.

14      (f) If coverage is purchased for any part of a year, the  
15      purchaser shall pay the full annual premium. The insurance  
16      premium is fully earned upon issuance of the insurance  
17      policy.

18      (g) The insurance coverage shall be provided with a  
19      \$10,000 deductible policy.

20      (h) A future repeal of this Section shall not terminate  
21      the obligations under this Section or authority necessary to  
22      administer the obligations until the obligations are  
23      satisfied, including but not limited to the payment of claims  
24      filed prior to the effective date of any future repeal  
25      against the insurance account until moneys in the account are  
26      exhausted. Upon exhaustion of the moneys in the account, any  
27      remaining claims shall be invalid. If moneys remain in the  
28      account following satisfaction of the obligations under this  
29      Section, the remaining moneys and moneys due the account  
30      shall be used to assist current insureds to obtain a viable  
31      insuring mechanism as determined by the Council after public  
32      notice and opportunity for comment.

33      (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

1 (415 ILCS 135/60)

2 (Section scheduled to be repealed on January 1, 2010)

3 Sec. 60. Drycleaning facility license.

4 (a) On and after January 1, 1998, no person shall  
5 operate a drycleaning facility in this State without a  
6 license issued by the Council.

7 (b) The Council shall issue an initial or renewal  
8 license to a drycleaning facility on submission by an  
9 applicant of a completed form prescribed by the Council and  
10 proof of payment of the required fee to the Department of  
11 Revenue.

12 (c) On or after January 1, 2004, the annual fees for  
13 licensure are as follows:

14 (1) \$500 for a facility that uses (i) 50 purchases  
15 140 gallons or less of chlorine-based or green  
16 drycleaning solvents annually, (ii) 250 or less gallons  
17 annually of hydrocarbon-based drycleaning solvents in a  
18 drycleaning machine equipped with a solvent reclaimer, or  
19 (iii) 500 1400 gallons or less annually of  
20 hydrocarbon-based drycleaning solvents in a drycleaning  
21 machine without a solvent reclaimer annually.

22 (2) \$500 \$1,000 for a facility that uses (i)  
23 purchases more than 50 140 gallons but not more than 100  
24 less--than--360 gallons of chlorine-based or green  
25 drycleaning solvents annually, (ii) more than 250 gallons  
26 but not more 500 gallons annually of hydrocarbon-based  
27 solvents in a drycleaning machine equipped with a solvent  
28 reclaimer, or (iii) more than 500 1400 gallons but not  
29 more than 1,000 less--than--3600 gallons annually of  
30 hydrocarbon-based drycleaning solvents in a drycleaning  
31 machine without a solvent reclaimer annually.

32 (3) \$500 \$1,500 for a facility that uses (i) 100  
33 purchases-360 gallons but not more than 150 gallons or  
34 more of chlorine-based or green drycleaning solvents

1 annually, (ii) more than 500 gallons but not more than  
2 750 gallons annually of hydrocarbon-based solvents in a  
3 drycleaning machine equipped with a solvent reclaimer, or  
4 (iii) more than 1,000 gallons but not more than 1,500  
5 gallons annually 3600----gallens----er----more of  
6 hydrocarbon-based drycleaning solvents in a drycleaning  
7 machine without a solvent reclaimer annually.

8 (4) \$1,000 for a facility that uses (i) more than  
9 150 gallons but not more than 200 gallons of  
10 chlorine-based or green drycleaning solvents annually,  
11 (ii) more than 750 gallons but not more than 1,000  
12 gallons annually of hydrocarbon-based solvents in a  
13 drycleaning machine equipped with a solvent reclaimer, or  
14 (iii) more than 1,500 gallons but not more than 2,000  
15 gallons annually of hydrocarbon-based drycleaning  
16 solvents in a drycleaning machine without a solvent  
17 reclaimer.

18 (5) \$1,000 for a facility that uses (i) more than  
19 200 gallons but not more than 250 gallons of  
20 chlorine-based or green drycleaning solvents annually,  
21 (ii) more than 1,000 gallons but not more than 1,250  
22 gallons annually of hydrocarbon-based solvents in a  
23 drycleaning machine equipped with a solvent reclaimer, or  
24 (iii) more than 2,000 gallons but not more than 2,500  
25 gallons annually of hydrocarbon-based drycleaning  
26 solvents in a drycleaning machine without a solvent  
27 reclaimer.

28 (6) \$1,000 for a facility that uses (i) more than  
29 250 gallons but not more than 300 gallons of  
30 chlorine-based or green drycleaning solvents annually,  
31 (ii) more than 1,250 gallons but not more than 1,500  
32 gallons annually of hydrocarbon-based solvents in a  
33 drycleaning machine equipped with a solvent reclaimer, or  
34 (iii) more than 2,500 gallons but not more than 3,000

1 gallons annually of hydrocarbon-based drycleaning  
2 solvents in a drycleaning machine without a solvent  
3 reclaimer.

4 (7) \$1,000 for a facility that uses (i) more than  
5 300 gallons but not more than 350 gallons of  
6 chlorine-based or green drycleaning solvents annually,  
7 (ii) more than 1,500 gallons but not more than 1,750  
8 gallons annually of hydrocarbon-based solvents in a  
9 drycleaning machine equipped with a solvent reclaimer, or  
10 (iii) more than 3,000 gallons but not more than 3,500  
11 gallons annually of hydrocarbon-based drycleaning  
12 solvents in a drycleaning machine without a solvent  
13 reclaimer.

14 (8) \$1,500 for a facility that uses (i) more than  
15 350 gallons but not more than 400 gallons of  
16 chlorine-based or green drycleaning solvents annually,  
17 (ii) more than 1,750 gallons but not more than 2,000  
18 gallons annually of hydrocarbon-based solvents in a  
19 drycleaning machine equipped with a solvent reclaimer, or  
20 (iii) more than 3,500 gallons but not more than 4,000  
21 gallons annually of hydrocarbon-based drycleaning  
22 solvents in a drycleaning machine without a solvent  
23 reclaimer.

24 (9) \$1,500 for a facility that uses (i) more than  
25 400 gallons but not more than 450 gallons of  
26 chlorine-based or green drycleaning solvents annually,  
27 (ii) more than 2,000 gallons but not more than 2,250  
28 gallons annually of hydrocarbon-based solvents in a  
29 drycleaning machine equipped with a solvent reclaimer, or  
30 (iii) more than 4,000 gallons but not more than 4,500  
31 gallons annually of hydrocarbon-based drycleaning  
32 solvents in a drycleaning machine without a solvent  
33 reclaimer.

34 (10) \$1,500 for a facility that uses (i) more than

1 450 gallons but not more than 500 gallons of  
2 chlorine-based or green drycleaning solvents annually,  
3 (ii) more than 2,250 gallons but not more than 2,500  
4 gallons annually of hydrocarbon-based solvents used in a  
5 drycleaning machine equipped with a solvent reclaimer, or  
6 (iii) more than 4,500 gallons but not more than 5,000  
7 gallons annually of hydrocarbon-based drycleaning  
8 solvents in a drycleaning machine without a solvent  
9 reclaimer.

10 (11) \$1,500 for a facility that uses (i) more than  
11 500 gallons but not more than 550 gallons of  
12 chlorine-based or green drycleaning solvents annually,  
13 (ii) more than 2,500 gallons but not more than 2,750  
14 gallons annually of hydrocarbon-based solvents in a  
15 drycleaning machine equipped with a solvent reclaimer, or  
16 (iii) more than 5,000 gallons but not more than 5,500  
17 gallons annually of hydrocarbon-based drycleaning  
18 solvents in a drycleaning machine without a solvent  
19 reclaimer.

20 (12) \$1,500 for a facility that uses (i) more than  
21 550 gallons but not more than 600 gallons of  
22 chlorine-based or green drycleaning solvents annually,  
23 (ii) more than 2,750 gallons but not more than 3,000  
24 gallons annually of hydrocarbon-based solvents in a  
25 drycleaning machine equipped with a solvent reclaimer, or  
26 (iii) more than 5,500 gallons but not more than 6,000  
27 gallons annually of hydrocarbon-based drycleaning  
28 solvents in a drycleaning machine without a solvent  
29 reclaimer.

30 (13) \$1,500 for a facility that uses (i) more than  
31 600 gallons of chlorine-based or green drycleaning  
32 solvents annually, (ii) more than 3,000 gallons but not  
33 more than 3,250 gallons annually of hydrocarbon-based  
34 solvents in a drycleaning machine equipped with a solvent

1 reclaimer, or (iii) more than 6,000 gallons of  
2 hydrocarbon-based drycleaning solvents annually in a  
3 drycleaning machine equipped without a solvent reclaimer.

4 (14) \$1,500 for a facility that uses more than  
5 3,250 gallons but not more than 3,500 gallons annually of  
6 hydrocarbon-based solvents in a drycleaning machine  
7 equipped with a solvent reclaimer.

8 (15) \$1,500 for a facility that uses more than  
9 3,500 gallons but not more than 3,750 gallons annually of  
10 hydrocarbon-based solvents used in a drycleaning machine  
11 equipped with a solvent reclaimer.

12 (16) \$1,500 for a facility that uses more than  
13 3,750 gallons but not more than 4,000 gallons annually of  
14 hydrocarbon-based solvents in a drycleaning machine  
15 equipped with a solvent reclaimer.

16 (17) \$1,500 for a facility that uses more than  
17 4,000 gallons annually of hydrocarbon-based solvents in a  
18 drycleaning machine equipped with a solvent reclaimer.

19 For purpose of this subsection, the quantity of  
20 drycleaning solvents used purchased annually shall be  
21 determined as follows:

22 (1) in the case of an initial applicant, the  
23 quantity of drycleaning solvents that the applicant  
24 estimates will be used during his or her initial license  
25 year. A fee assessed under this subdivision is subject  
26 to audited adjustment for that year; or

27 (2) in the case of a renewal applicant, the  
28 quantity of drycleaning solvents actually used in the  
29 preceding license year.

30 The Council may adjust licensing fees annually based on  
31 the published Consumer Price Index - All Urban Consumers  
32 ("CPI-U") or as otherwise determined by the Council.

33 (d) A license issued under this Section shall expire one  
34 year after the date of issuance and may be renewed on

1 reapplication to the Council and submission of proof of  
2 payment of the appropriate fee to the Department of Revenue  
3 in accordance with subsections (c) and (e). At least 30 days  
4 before payment of a renewal licensing fee is due, the Council  
5 shall attempt to:

6 (1) notify the operator of each licensed  
7 drycleaning facility concerning the requirements of this  
8 Section; and

9 (2) submit a license fee payment form to the  
10 licensed operator of each drycleaning facility.

11 (e) An operator of a drycleaning facility shall submit  
12 the appropriate application form provided by the Council with  
13 the license fee in the form of cash or guaranteed remittance  
14 to the Department of Revenue. The license fee payment form  
15 and the actual license fee payment shall be administered by  
16 the Department of Revenue under rules adopted by that  
17 Department.

18 (f) The Department of Revenue shall issue a proof of  
19 payment receipt to each operator of a drycleaning facility  
20 who has paid the appropriate fee in cash or by guaranteed  
21 remittance. However, the Department of Revenue shall not  
22 issue a proof of payment receipt to a drycleaning facility  
23 that is liable to the Department of Revenue for a tax imposed  
24 under this Act. The original receipt shall be presented to  
25 the Council by the operator of a drycleaning facility.

26 (g) An operator of a dry cleaning facility who is  
27 required to pay a license fee under this Act and fails to pay  
28 the license fee when the fee is due may shall be assessed a  
29 penalty of \$5 for each day after the license fee is due and  
30 until the license fee is paid. The penalty shall be effective  
31 for license fees due on or after July 1, 1999.

32 (h) The Council and the Department of Revenue may adopt  
33 rules as necessary to administer the licensing requirements  
34 of this Act.

1 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)

2 (415 ILCS 135/65)

3 (Section scheduled to be repealed on January 1, 2010)

4 Sec. 65. Drycleaning solvent tax.

5 (a) On and after January 1, 1998, a tax is imposed upon  
6 the use of drycleaning solvent by a person engaged in the  
7 business of operating a drycleaning facility in this State at  
8 the rate of \$3.50 per gallon of perchloroethylene or other  
9 chlorinated drycleaning solvents used in drycleaning  
10 operations, and \$0.35 per gallon of petroleum-based  
11 drycleaning solvent, and \$3.50 per gallon of green solvents,  
12 unless the green solvent is used at a virgin facility, in  
13 which case the rate is \$0.35 per gallon. The Council shall  
14 determine by rule which products are chlorine-based  
15 solvents, and which products are petroleum-based solvents,  
16 and which products are green solvents. All drycleaning  
17 solvents shall be considered chlorinated solvents unless the  
18 Council determines that the solvents are petroleum-based  
19 drycleaning solvents or green solvents ~~subject to the lower~~  
20 ~~tax.~~

21 (b) The tax imposed by this Act shall be collected from  
22 the purchaser at the time of sale by a seller of drycleaning  
23 solvents maintaining a place of business in this State and  
24 shall be remitted to the Department of Revenue under the  
25 provisions of this Act.

26 (c) The tax imposed by this Act that is not collected by  
27 a seller of drycleaning solvents shall be paid directly to  
28 the Department of Revenue by the purchaser or end user who is  
29 subject to the tax imposed by this Act.

30 (d) No tax shall be imposed upon the use of drycleaning  
31 solvent if the drycleaning solvent will not be used in a  
32 drycleaning facility or if a floor stock tax has been imposed  
33 and paid on the drycleaning solvent. Prior to the purchase

1 of the solvent, the purchaser shall provide a written and  
2 signed certificate to the drycleaning solvent seller stating:

3 (1) the name and address of the purchaser;

4 (2) the purchaser's signature and date of signing;

5 and

6 (3) one of the following:

7 (A) that the drycleaning solvent will not be  
8 used in a drycleaning facility; or

9 (B) that a floor stock tax has been imposed  
10 and paid on the drycleaning solvent.

11 A person who provides a false certification under this  
12 subsection shall be liable for a civil penalty not to exceed  
13 \$500 for a first violation and a civil penalty not to exceed  
14 \$5,000 for a second or subsequent violation.

15 (e) On January 1, 1998, there is imposed on each  
16 operator of a drycleaning facility a tax on drycleaning  
17 solvent held by the operator on that date for use in a  
18 drycleaning facility. The tax imposed shall be the tax that  
19 would have been imposed under subsection (a) if the  
20 drycleaning solvent held by the operator on that date had  
21 been purchased by the operator during the first year of this  
22 Act.

23 (f) On or before the 25th day of the 1st month following  
24 the end of the calendar quarter, a seller of drycleaning  
25 solvents who has collected a tax pursuant to this Section  
26 during the previous calendar quarter, or a purchaser or end  
27 user of drycleaning solvents required under subsection (c) to  
28 submit the tax directly to the Department, shall file a  
29 return with the Department of Revenue. The return shall be  
30 filed on a form prescribed by the Department of Revenue and  
31 shall contain information that the Department of Revenue  
32 reasonably requires, but at a minimum will require the  
33 reporting of the volume of drycleaning solvent sold to each  
34 licensed drycleaner. The Department of Revenue shall report

1 quarterly to the Council the volume of drycleaning solvent  
2 purchased for the quarter by each licensed drycleaner. Each  
3 seller of drycleaning solvent maintaining a place of business  
4 in this State who is required or authorized to collect the  
5 tax imposed by this Act shall pay to the Department the  
6 amount of the tax at the time when he or she is required to  
7 file his or her return for the period during which the tax  
8 was collected. Purchasers or end users remitting the tax  
9 directly to the Department under subsection (c) shall file a  
10 return with the Department of Revenue and pay the tax so  
11 incurred by the purchaser or end user during the preceding  
12 calendar quarter.

13 (g) The tax on drycleaning solvents used in drycleaning  
14 facilities and the floor stock tax shall be administered by  
15 Department of Revenue under rules adopted by that Department.

16 (h) On and after January 1, 1998, no person shall  
17 knowingly sell or transfer drycleaning solvent to an operator  
18 of a drycleaning facility that is not licensed by the Council  
19 under Section 60. A person who violates this subsection is  
20 liable for a civil penalty not to exceed \$500 for a first  
21 violation and a civil penalty not to exceed \$5,000 for a  
22 second or subsequent violation.

23 (i) The Department of Revenue may adopt rules as  
24 necessary to implement this Section.

25 (Source: P.A. 90-502, eff. 8-19-97.)

26 (415 ILCS 135/85)

27 Sec. 85. Repeal of fee and tax provisions. Sections 60  
28 and 65 of this Act are repealed on January 1, 2020 ~~2010~~.

29 (Source: P.A. 90-502, eff. 8-19-97; 91-453, eff. 8-6-99.)".